IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1094 OF 1992

Balumal Chandanmal ..Petitioner

versus

State of Maharashtra & Ors. ..Respondents

Mr. S. P. Kanuga for the Petitioner.

Mr. A. P. Vanarase, AGP for the Respondents No. 1 to 3 - State.

CORAM : D. G. DESHPANDE, J.

DATE : 12TH SEPTEMBER, 2006

ORAL ORDER :

1. Heard Advocate for the Petitioner and learned AGP for the Respondents No. 1 to 3 - State.

2. The Petitioner has challenged the Order of the Authorised Chief Settlement Commissioner, Konkan Bhavan, New Bombay, dated 12.2.1990 by which Authorised Chief Settlement Commissioner directed the Managing Officer and Assistant Administrator, Ulhasnagar - 4 to take immediate steps to cancel the Conveyance Deeds issued in favour of the present Petitioner in respect of the land granted out of the

common passage surrounded by the tenements in Barrack No. 1579 Section 27, Ulhasnagar -4.

3. The Petitioner is a displaced person. On 14.4.1980 the aforesaid piece of land was allotted to him. From that day the land vested in the Petitioner, but nearly after ten years, the Authorised Chief Settlement Commissioner passed the impugned order, which will have the effect of cancelling the Conveyance Deed which had already been granted in favour of the Petitioner and this appears to have been done by the Authorised Chief Settlement Commissioner on the ground that the land allotted to the Petitioner was a passage or a common chowk and no construction could be made thereupon.

4. Advocate for the Petitioner relied upon three Judgments, wherein it has been consistently held that when once vesting takes place, the same cannot be set aside without following the due process of law and without giving an opportunity to the affected person to explain. The Judgements in this regards are :

1) 1997(2) Bom. C.R. 662 Ramesh Tulsidas

Bhatia vs. The Principal Secretary and Others.

2) 1997(3) Bom. C.R. 333 Ramchand Gobindram Gurnani, since deceased through his heirs and legal representatives vs. The State of Maharashtra and Others; and

3) AIR 1979 Bom. 143 Bhoorsingh Palasingh vs. Kesumal Aratmal and Others.

In all the three cases, it has been held that the residuary powers under Section 33 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, cannot be invoked for undoing act of vesting which has taken place after following due process of law. It has also been observed that once vesting of the property takes place in favour of a person by way of conveyance, the same cannot be set aside in the manner in which it is sought to be done.

5. From all the three Rulings, it is clear that the very powers of the Settlement Commissioner regarding cancellation of conveyance deeds have been questioned by the Division Benches and have been

answered in the negative. Then obviously, impugned order is without jurisdiction, and, therefore, this Petition has to be allowed.

6. In the result, the Petition is allowed. Rule made absolute in terms of prayer clause (a) of the Petition. Orders dated 12.2.1990 and 21.1.1992 as prayed are quashed and set aside.

(D.G. DESHPANDE, J.)